

SENATE FILE NO. SF0017

Adult protective services.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to adult protective services; creating the  
2 crime of abuse, neglect, abandonment or exploitation of a  
3 vulnerable adult; amending elements constituting abuse of  
4 vulnerable adults as specified; providing definitions;  
5 separating provisions for child protection, adult  
6 protection and central registries; clarifying  
7 responsibilities of the department of family services;  
8 conforming provisions; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 6-2-507 and 35-20-110 through  
13 35-20-116 are created to read:

14

15 **6-2-507. Abuse, neglect, abandonment or exploitation**  
16 **of a vulnerable adult; penalties.**

17

1           (a) Except under circumstances constituting a  
2 violation of W.S. 6-2-502, a caregiver is guilty of abuse,  
3 neglect, abandonment or exploitation of a vulnerable adult  
4 if the caregiver intentionally or recklessly abuses,  
5 neglects, abandons or exploits a vulnerable adult.

6

7           (b) Reckless abuse, neglect or abandonment of a  
8 vulnerable adult is a misdemeanor, punishable by not more  
9 than one (1) year in jail, a fine of one thousand dollars  
10 (\$1,000.00), or both, and registration of the offender's  
11 name on the central registry.

12

13           (c) Intentional abuse, neglect or abandonment of a  
14 vulnerable adult is a felony punishable by not more than  
15 ten (10) years in prison, a fine of not more than ten  
16 thousand dollars (\$10,000.00), or both, and registration of  
17 the offender's name on the central registry.

18

19           (d) Exploitation of a vulnerable adult is a felony  
20 punishable by not more than ten (10) years in prison, a  
21 fine of not more than ten thousand dollars (\$10,000.00), or  
22 both, and registration of the offender's name on the  
23 central registry.

24

1 (e) As used in this section:

2

3 (i) "Abandonment" means as defined in W.S.  
4 35-20-102(a)(i);

5

6 (ii) "Abuse" means as defined in W.S.  
7 35-20-102(a)(ii);

8

9 (iii) "Caregiver" means as defined in W.S.  
10 35-20-102(a)(iv);

11

12 (iv) "Central registry" means the registry  
13 established under W.S. 35-20-115;

14

15 (v) "Exploitation" means as defined in W.S.  
16 35-20-102(a)(ix);

17

18 (vi) "Neglect" means as defined in W.S.  
19 35-20-102(a)(xi);

20

21 (vii) "Vulnerable adult" means as defined in  
22 W.S. 35-20-102(a)(xviii).

23

1           **35-20-110. When access to vulnerable adult denied;**  
2 **injunction.**

3

4 If access to the vulnerable adult is denied to law  
5 enforcement or the department seeking to investigate a  
6 report of abuse, neglect, exploitation, abandonment or self  
7 neglect of a vulnerable adult, the investigator may seek an  
8 injunction to prevent interference with the investigation.  
9 The court may issue the injunction if it finds that the  
10 person whose duty it is to investigate the report is acting  
11 within the scope of his duty and has been unreasonably  
12 denied access to the vulnerable adult.

13

14           **35-20-111. Duty to report.**

15

16           (a) The duty to report imposed by W.S. 35-20-103  
17 applies without exception to a person or agency who knows,  
18 or has sufficient knowledge which a prudent and cautious  
19 man in similar circumstances would have to believe, that a  
20 vulnerable adult has been or is being abused, neglected,  
21 exploited or abandoned, or is committing self neglect.

22

23           (b) Any person or agency who knows or has sufficient  
24 knowledge which a prudent and cautious man in similar

1 circumstances would have to believe that a vulnerable adult  
2 is being or has been abused, neglected, exploited or  
3 abandoned, or is committing self neglect, and knowingly  
4 fails to report in accordance with this act is guilty of a  
5 misdemeanor punishable by imprisonment for not more than  
6 one (1) year, a fine of not more than one thousand dollars  
7 (\$1,000.00), or both.

8

9 **35-20-112. Confidentiality of records; penalties;**  
10 **access to information.**

11

12 (a) All records concerning reports and investigations  
13 of vulnerable adult abuse, neglect, exploitation,  
14 abandonment or self neglect are confidential except as  
15 provided by W.S. 35-20-116. Any person who intentionally  
16 violates this subsection is guilty of a misdemeanor  
17 punishable by imprisonment for not more than six (6)  
18 months, a fine of not more than seven hundred fifty dollars  
19 (\$750.00), or both.

20

21 (b) The following records are confidential and not  
22 subject to disclosure under W.S. 16-4-201 through 16-4-205:

23

1           (i) A report of abuse, neglect, exploitation,  
2 abandonment or self neglect under this act;

3

4           (ii) The identity of the person making the  
5 report; and

6

7           (iii) Except as provided by this section, all  
8 files, reports, records, communications, and working papers  
9 used or developed in an investigation made under this act  
10 or in providing services as a result of an investigation.

11

12           (c) Upon application made in the manner and form  
13 prescribed by the department, the department may give  
14 access to records otherwise confidential under this section  
15 to any of the following persons or agencies for purposes  
16 directly related with the administration of this act:

17

18           (i) A local adult protective agency;

19

20           (ii) A law enforcement agency, guardian ad  
21 litem, conservator, guardian, adult protection team or  
22 attorney representing the vulnerable adult who is the  
23 subject of the report;

24

1           (iii) A physician or surgeon who is treating a  
2 vulnerable adult; and

3

4           (iv) Court personnel who are investigating  
5 reported incidents of adult abuse, neglect, exploitation or  
6 abandonment.

7

8           (d) Motions for access to records concerning  
9 vulnerable adult abuse, neglect, exploitation, abandonment  
10 or self neglect held by the state agency or local  
11 protective agency shall be made with the district court in  
12 the county where the vulnerable adult resides. A court may  
13 order disclosure of confidential records only if:

14

15           (i) A motion is filed with the court requesting:

16

17                   (A) Release of the records; and

18

19                   (B) A hearing on the request for release of  
20 the records; or

21

22                   (C) All interested parties stipulate to the  
23 release.

24

1           (ii) The motion for hearing is served on the  
2 department or investigating state agency and each  
3 interested party; and  
4

5           (iii) The court determines after the hearing and  
6 an in-camera review of the records that disclosure is  
7 necessary for the determination of all issues, in which  
8 case disclosure shall be limited to an in-camera  
9 inspection, or specifically limited disclosure, unless the  
10 court finds public disclosure is necessary.  
11

12           (e) The department or investigating state agency may  
13 establish procedures to exchange with another state agency  
14 or governmental entity records that are necessary for the  
15 department, state agency or entity to properly execute its  
16 respective duties and responsibilities to provide services  
17 to vulnerable adults under this act or other law. An  
18 exchange of records under this subsection does not affect  
19 whether the records are subject to disclosure under W.S.  
20 16-4-201 through 16-4-205.  
21

22           (f) A physician or person in charge of an  
23 institution, school, facility or agency making a report  
24 under W.S. 35-20-111 shall receive, upon written

1 application to the state agency, a written summary of the  
2 records concerning the subject of the report.

3

4 (g) Any person, agency or institution given access to  
5 records concerning the subject of the report under W.S.  
6 35-20-111 shall not divulge or make public any records  
7 except as required for court proceedings.

8

9 (h) Confidential records may be disclosed only for a  
10 purpose consistent with this act and as provided by  
11 department or investigating state agency rules and  
12 regulations and applicable federal law.

13

14 **35-20-113. False report; penalty.**

15

16 A person commits a misdemeanor punishable by imprisonment  
17 for not more than one (1) year, a fine of not more than one  
18 thousand dollars (\$1,000.00), or both, if he reports  
19 information pursuant to this act and knows or has reason to  
20 know the information is false or lacks factual foundation.

21

22 **35-20-114. Immunity.**

23

1           (a) A person or agency filing a report under this act  
2 or testifying or otherwise participating in any judicial  
3 proceeding arising from a petition, report, or  
4 investigation is immune from civil or criminal liability on  
5 account of the person's petition, report, testimony or  
6 participation, unless the person knowingly or negligently  
7 reports information that is false or lacks factual  
8 foundation. The immunity provided under this subsection  
9 applies only to those persons whose professional  
10 communications are generally confidential or subject to the  
11 Wyoming Public Records Act, W.S. 16-4-201 et seq.  
12 including:

13

14           (i) Attorneys;

15

16           (ii) Members of the clergy;

17

18           (iii) Medical practitioners;

19

20           (iv) Social workers;

21

22           (v) Mental health professionals;

23

1           (vi) Nursing home staff; assisted living  
2 facility staff; adult day care center staff; adult family-  
3 care home staff; social worker, or other professional adult  
4 care, residential or institutional staff;

5

6           (vii) State, county or municipal criminal  
7 justice employees or law enforcement officers; and

8

9           (viii) Bank, savings and loan or credit union  
10 officers, trustees or employees.

11

12           (b) A person or agency, including an authorized  
13 department volunteer, medical personnel or law enforcement  
14 officer who, at the request of the department, participates  
15 in an investigation required by this act or in an action  
16 that results from that investigation is immune from civil  
17 or criminal liability for any act or omission relating to  
18 that participation if the person acted in good faith and,  
19 if applicable, within the course or scope of the person's  
20 assigned responsibilities or duties.

21

22           **35-20-115. Central registry of adult protection**  
23 **cases; establishment; operation; amendment, expungement or**

1 **removal of records; classification and expungement of**  
2 **reports; statement of person accused.**

3

4 (a) The department shall establish and maintain a  
5 central registry of substantiated adult protection cases  
6 under this act.

7

8 (b) Through the recording of substantiated reports,  
9 the central registry shall be operated to assist the  
10 department to:

11

12 (i) Immediately identify and locate prior  
13 reports of cases of abuse, neglect, exploitation or  
14 abandonment of a vulnerable adult to assist in the  
15 diagnosis of suspicious circumstances and the assessment of  
16 the needs of the vulnerable adult and his caregiver;

17

18 (ii) Continuously monitor the current status of  
19 all pending adult protection cases; and

20

21 (iii) Evaluate the effectiveness of existing  
22 laws and programs through the development and analysis of  
23 statistical and other information.

24

1           (c) Upon written application of the department or any  
2 substantiated person and with the approval of the local law  
3 enforcement agency in adult protection cases, upon good  
4 cause shown and upon notice to the department, the subject  
5 of the report and all interested parties, the department  
6 may amend, expunge or remove any record from the central  
7 registry.

8

9           (d) Any person named as a perpetrator of abuse,  
10 neglect, exploitation or abandonment of any vulnerable  
11 adult in any substantiated report maintained in the central  
12 registry shall have the right to have included in the  
13 report a statement concerning the incident giving rise to  
14 the report. Any person seeking to include a statement  
15 pursuant to this subsection shall provide the department  
16 with the statement. The department shall provide notice to  
17 any person identified as a perpetrator of this right to  
18 submit a statement in any substantiated report maintained  
19 in the central registry.

20

21           (e) Any person convicted of, or having plead guilty  
22 or no contest to, a crime which includes the abuse,  
23 neglect, exploitation or abandonment of any vulnerable  
24 adult shall have that conviction reported to the department

1 by the court and the report shall be maintained in the  
2 central registry.

3

4 **35-20-116. Access to central registry records**  
5 **pertaining to adult protection cases.**

6

7 Upon appropriate application and for employee or volunteer  
8 screening purposes, the department shall provide to any  
9 individual, nursing home, adult care facility, educational  
10 facility, service provider of adult workshop programs or  
11 home health care provider, residential program or any  
12 service provider of programs in an institution or  
13 community-based program, or to any state institution, a  
14 record summary concerning abuse, neglect, exploitation or  
15 abandonment of a vulnerable adult involving a named  
16 individual or shall confirm that no record exists. The  
17 applicant shall submit proof satisfactory to the department  
18 that the prospective or current employee or volunteer whose  
19 records are being checked consents to the release of the  
20 information to the applicant. Central registry screening  
21 shall be limited to substantiated reports of abuse,  
22 neglect, exploitation or abandonment of a vulnerable adult  
23 in which opportunities for due process have been exhausted  
24 under the Wyoming Administrative Procedure Act, including

1 an appeal through the district court level. The applicant  
2 shall use the information received only for purposes of  
3 screening prospective employees and volunteers who may,  
4 through their employment or volunteer services, have  
5 unsupervised access to vulnerable adults. Applicants, their  
6 employees or other agents shall not otherwise divulge or  
7 make public any information received under this section.  
8 The department shall notify any applicant receiving a  
9 report under this section that a prospective employee is  
10 under investigation, of the final disposition of that  
11 investigation or whether an appeal is pending. The  
12 department shall notify any applicant receiving information  
13 under this subsection of any subsequent reclassification of  
14 the information pursuant to W.S. 35-20-115(c). The  
15 department shall screen all prospective employees in  
16 conformity with the procedure provided under this  
17 subsection.

18

19 **Section 2.** W.S. 14-3-202(a)(ii)(intro), (vii) and  
20 (ix) through (xi), 14-3-213(a), (b)(i) and (ii), (c) and  
21 (f), 14-3-214(f) and (g), 35-20-102(a)(i), (ii),  
22 (iv)(intro), (v), (vii), (viii), (ix), (xi)(intro), (xii),  
23 by creating new paragraphs (xiv) through (xix) and by  
24 amending and renumbering (xiv) as (xx), 35-20-103(a)

1 through (f), 35-20-104(a)(intro), (i) and (ii), 35-20-105,  
2 35-20-106(a), (b) and (c)(i) and (ii), 35-20-107 and  
3 35-20-108 are amended to read:

4

5 **14-3-202. Definitions.**

6

7 (a) As used in W.S. 14-3-201 through 14-3-215:

8

9 (ii) "Abuse" ~~with respect to a disabled adult~~  
10 ~~means as defined under W.S. 35-20-102(a)(ii).~~ "Abuse" with  
11 ~~respect to a child~~ means inflicting or causing physical or  
12 mental injury, harm or imminent danger to the physical or  
13 mental health or welfare of a child other than by  
14 accidental means, including abandonment, excessive or  
15 unreasonable corporal punishment, malnutrition or  
16 substantial risk thereof by reason of intentional or  
17 unintentional neglect, and the commission or allowing the  
18 commission of a sexual offense against a child as defined  
19 by law:

20

21 (vii) "Neglect" ~~with respect to a disabled adult~~  
22 ~~means as defined under W.S. 35-20-102(a)(xi).~~ "Neglect"  
23 ~~with respect to a child~~ means a failure or refusal by those  
24 responsible for the child's welfare to provide adequate

1 care, maintenance, supervision, education or medical,  
2 surgical or any other care necessary for the child's well  
3 being. Treatment given in good faith by spiritual means  
4 alone, through prayer, by a duly accredited practitioner in  
5 accordance with the tenets and practices of a recognized  
6 church or religious denomination is not child neglect for  
7 that reason alone;

8

9 (ix) "Subject of the report" means any child  
10 reported under W.S. 14-3-201 through 14-3-215 or the  
11 child's parent, guardian or other person responsible for  
12 the child's welfare; ~~or any disabled adult reported under~~  
13 ~~W.S. 35-20-101 through 35-20-109 or the disabled adult's~~  
14 ~~caretaker;~~

15

16 (x) "Unfounded report" means any report made  
17 pursuant to W.S. 14-3-201 through 14-3-215 ~~or 35-20-101~~  
18 ~~through 35-20-109~~ that is not supported by credible  
19 evidence;

20

21 (xi) "Substantiated report" means any report of  
22 child abuse or neglect pursuant to W.S. 14-3-201 through  
23 14-3-215, ~~or any report of abuse, neglect, exploitation or~~  
24 ~~abandonment of a disabled adult under W.S. 35-20-101~~

1 ~~through 35-20-109,~~ that is determined upon investigation  
2 that credible evidence of the alleged abuse, or neglect,  
3 ~~exploitation or abandonment~~ exists;

4

5 **14-3-213. Central registry of child protection cases;**  
6 **establishment; operation; amendment, expungement or removal**  
7 **of records; classification and expungement of reports;**  
8 **statement of person accused.**

9

10 (a) The state agency shall establish and maintain  
11 within the statewide child protection center a central  
12 registry of child protection cases in accordance with W.S.  
13 42-2-111. ~~and of disabled adult protection cases under W.S.~~  
14 ~~35-20-101 through 35-20-109.~~

15

16 (b) Through the recording of reports, the central  
17 registry shall be operated to enable the center to:

18

19 (i) Immediately identify and locate prior  
20 reports of cases of child abuse or neglect ~~and of abuse,~~  
21 ~~neglect, exploitation or abandonment of a disabled adult~~ to  
22 assist in the diagnosis of suspicious circumstances and the  
23 assessment of the needs of the child and his family; ~~or of~~

1 ~~the disabled adult and his caretaker as defined under W.S.~~  
2 ~~35-20-102(a)(iv);~~

3

4 (ii) Continuously monitor the current status of  
5 all pending child protection cases; ~~and disabled adult~~  
6 ~~protection cases;~~ and

7

8 (c) With the approval of the local child protective  
9 agency, ~~in the case of child protection cases, or the local~~  
10 ~~police department or the sheriff's department in the case~~  
11 ~~of disabled adult protection cases,~~ upon good cause shown  
12 and upon notice to the subject of the report, the state  
13 agency may amend, expunge or remove any record from the  
14 central registry.

15

16 (f) Any person named as a perpetrator of child abuse  
17 or neglect ~~or of abuse, neglect, exploitation or~~  
18 ~~abandonment of any disabled adult~~ in any report maintained  
19 in the central registry which is classified as a  
20 substantiated report as defined in W.S. 14-3-202(a)(xi)  
21 shall have the right to have included in the report his  
22 statement concerning the incident giving rise to the  
23 report. Any person seeking to include a statement pursuant  
24 to this subsection shall provide the state agency with the

1 statement. ~~From and after July 1, 1994 for cases involving~~  
2 ~~a child, and from and after July 1, 1995 for cases~~  
3 ~~involving a disabled adult,~~ The state agency shall provide  
4 notice to any person identified as a perpetrator of his  
5 right to submit his statement in any report maintained in  
6 the central registry.

7

8 **14-3-214. Confidentiality of records; penalties;**  
9 **access to information; attendance of school officials at**  
10 **interviews; access to central registry records pertaining**  
11 **to child protection cases.**

12

13 (f) Upon appropriate application, the state agency  
14 shall provide to any chapter of a nationally recognized  
15 youth organization, child caring facility certified under  
16 W.S. 14-4-101 et seq., public or private school or state  
17 institution for employee or volunteer screening purposes a  
18 summary of records maintained under department of family  
19 services rules since December 31, 1986, concerning child  
20 abuse involving a named individual or confirm that no  
21 records exist. ~~Upon appropriate application and for~~  
22 ~~employee or volunteer screening purposes, the state agency~~  
23 ~~shall provide to any individual, nursing home, adult care~~  
24 ~~facility, service provider of adult workshop programs or~~

1 ~~home health care provider, residential programs or any~~  
2 ~~service provider of programs in an institution or~~  
3 ~~community-based program, or to any state institution, a~~  
4 ~~record summary concerning abuse, neglect, exploitation or~~  
5 ~~abandonment of a disabled adult involving a named~~  
6 ~~individual or shall confirm that no record exists.~~ The  
7 applicant shall submit a fee of five dollars (\$5.00) and  
8 proof satisfactory to the state agency that the prospective  
9 or current employee or volunteer whose records are being  
10 checked consents to the release of the information to the  
11 applicant. Central registry screening shall be limited to  
12 substantiated reports of child abuse and neglect ~~or~~  
13 ~~substantiated reports of abuse, neglect, exploitation or~~  
14 ~~abandonment of a disabled adult,~~ in which ~~all~~ opportunities  
15 for due process have been exhausted under the Wyoming  
16 Administrative Procedure Act including ~~any~~ an appeal ~~to~~  
17 through the district court level. The applicant shall use  
18 the information received only for purposes of screening  
19 prospective employees and volunteers who may, through their  
20 employment or volunteer services, have unsupervised access  
21 to minors. ~~or disabled adults.~~ Applicants, their employees  
22 or other agents shall not otherwise divulge or make public  
23 any information received under this section. The state  
24 agency shall notify any applicant receiving a report under

1 this section that a prospective employee is under  
2 investigation, of the final disposition of that  
3 investigation or ~~any~~ whether an appeal is pending. The  
4 state agency shall notify any applicant receiving  
5 information under this subsection of any subsequent  
6 reclassification of the information pursuant to W.S.  
7 14-3-213(e). The state agency shall screen all prospective  
8 agency employees in conformity with the procedure provided  
9 under this subsection.

10  
11 (g) There is created a program administration account  
12 within the earmarked revenue fund to be known as the "child  
13 and ~~disabled~~ vulnerable adult abuse registry account". All  
14 fees collected under subsection (f) of this section shall  
15 be credited to this account.

16  
17 **35-20-102. Definitions.**

18  
19 (a) As used in this act:

20  
21 (i) "Abandonment" means leaving a ~~disabled~~  
22 vulnerable adult without financial support or the means or  
23 ability to obtain food, clothing, shelter or health care;

1 (ii) "Abuse" means the ~~willful~~ intentional or  
2 reckless infliction, ~~whether by another person or~~  
3 ~~self-inflicted, of physical pain, by the vulnerable adult's~~  
4 caregiver, family member or other individual of:

5  
6 (A) Injury;

7  
8 (B) Unreasonable confinement ~~or~~  
9 ~~deprivation,~~ which ~~conduct~~ threatens the welfare and well  
10 being of a ~~disabled~~ vulnerable adult; or

11  
12 (C) Intimidation or cruel punishment with  
13 resulting physical or emotional harm or pain to a  
14 vulnerable adult.

15  
16 (iv) "~~Caretaker~~ Caregiver" means any person or  
17 agency responsible for the ~~day to day~~ care of a ~~disabled~~  
18 vulnerable adult because of:

19  
20 (B) Voluntary assumption of responsibility  
21 for ~~day to day~~ care;

22  
23 (D) Rendering services ~~on~~ in an adult  
24 workshop or adult residential ~~programs~~ program; or

1

2

3

(E) Rendering services in an institution or in a community-based ~~programs~~ program.

4

5

6

(v) "Court" means the district court in the district where the vulnerable adult resides or is found;

7

8

9

(vii) "~~Division~~ Department" means the state department of family services or its designee;

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(ix) "Exploitation" means ~~taking advantage of a disabled adult or of his physical or financial resources for personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation or false pretenses~~ the reckless or intentional act taken by any person, or any use of the power of attorney, conservatorship or guardianship of a

1 vulnerable adult, to obtain control through deception,  
2 harassment, intimidation or undue influence over the  
3 vulnerable adult's money, assets or property with the  
4 intention of permanently or temporarily depriving the  
5 vulnerable adult of the ownership, use, benefit or  
6 possession of his money, assets or property;

7  
8 (xi) "Neglect" means the deprivation, ~~including~~  
9 ~~self-deprivation,~~ of, or failure to provide, the minimum  
10 food, shelter, clothing, supervision, physical and mental  
11 health care, and other care necessary to maintain a  
12 ~~disabled~~-vulnerable adult's life or health, or which may  
13 result in a life-threatening situation. The withholding of  
14 health care from a ~~disabled~~-vulnerable adult is not neglect  
15 if:

16  
17 (xii) "Protective services" means those  
18 emergency services provided by the ~~division~~-department to  
19 assist ~~disabled~~-vulnerable adults ~~in order~~ to prevent or  
20 terminate abuse, neglect, exploitation or abandonment until  
21 the ~~disabled~~-vulnerable adult no longer needs those  
22 services. These services may include social casework, case  
23 management, home care, day care, social services, health

1 care, psychiatric or health evaluations and other emergency  
2 services consistent with this act;

3  
4 (xiv) "Capacity to consent" means the ability to  
5 understand and appreciate the nature and consequences of  
6 making decisions concerning one's person, including,  
7 provisions for health or mental health care, food, shelter,  
8 clothing, safety or financial affairs. This determination  
9 may be based on assessment or investigative findings,  
10 observation or medical or mental health evaluations;

11  
12 (xv) "Injury" means any harm, including  
13 disfigurement, impairment of any bodily organ, skin  
14 bruising, laceration, bleeding, burn, fracture or  
15 dislocation of any bone, subdural hematoma, malnutrition,  
16 dehydration or pressure sores;

17  
18 (xvi) "Mental disability" means a condition  
19 causing mental dysfunction resulting in an inability to  
20 manage resources, carry out the activities of daily living  
21 or protect oneself from neglect, abuse, exploitation or  
22 hazardous situations without assistance from others.  
23 Whether or not a mental dysfunction of such degree exists

1 is subject to an evaluation by a licensed psychologist,  
2 psychiatrist or physician, if disputed;

3  
4 (xvii) "Self neglect" means a vulnerable adult  
5 who is unable, due to physical or mental disability, or who  
6 refuses to perform essential self-care tasks, including  
7 providing essential food, clothing, shelter or medical  
8 care, obtaining goods and services necessary to maintain  
9 physical health, mental health, emotional well-being and  
10 general safety, or managing financial affairs;

11  
12 (xviii) "Vulnerable adult" means any person  
13 eighteen (18) years of age or older who is unable to manage  
14 and take care of himself or his property without assistance  
15 as a result of advanced age or physical or mental  
16 disability;

17  
18 (xix) "Substantiated report" means any report of  
19 abuse or neglect pursuant to this act that is determined  
20 upon investigation that credible evidence of the alleged  
21 abuse or neglect exists;

22  
23 ~~(xiv)~~ (xx) "This act" means W.S. 35-20-101  
24 through ~~35-20-109~~ 35-20-116.

1

2           **35-20-103. Reports of abuse, neglect or exploitation**  
3 **of vulnerable adult; reports maintained in central**  
4 **registry.**

5

6           (a) Any person or agency who knows or has reasonable  
7 cause to believe that a ~~disabled~~ vulnerable adult is being  
8 or has been abused, neglected, exploited or abandoned or is  
9 committing self neglect shall report the ~~facts~~ information  
10 immediately to ~~the sheriff's department, the local police~~  
11 ~~department~~ a law enforcement agency or the ~~division~~  
12 department. Anyone who in good faith makes a report  
13 pursuant to this section is immune from civil liability for  
14 making the report.

15

16           (b) ~~If access to the disabled adult is denied to the~~  
17 ~~sheriff's department, police department or the division~~  
18 ~~seeking to investigate a report of abuse, neglect,~~  
19 ~~exploitation or abandonment of a disabled adult, the~~  
20 ~~investigator may seek an injunction to prevent interference~~  
21 ~~with the investigation. The court may issue the injunction~~  
22 ~~if it finds that the person whose duty it is to investigate~~  
23 ~~the report is acting in the scope of his duty and has been~~  
24 ~~unreasonably denied access to the disabled adult.~~ The

1 report may be made orally or in writing. The report shall  
2 provide to law enforcement or the department the following,  
3 to the extent available:

4  
5 (i) The name, age and address of the vulnerable  
6 adult;

7  
8 (ii) The name and address of any person  
9 responsible for the vulnerable adult's care;

10  
11 (iii) The nature and extent of the vulnerable  
12 adult's condition;

13  
14 (iv) The basis of the reporter's knowledge;

15  
16 (v) The names and conditions of the other  
17 residents, if the vulnerable adult resides in a facility  
18 with other vulnerable adults;

19  
20 (vi) An evaluation of the persons responsible  
21 for the care of the residents, if the vulnerable adult  
22 resides in a facility with other vulnerable adults;

23  
24 (vii) The adequacy of the facility environment;

1

2

(viii) Any evidence of previous injuries;

3

4

(ix) Any collaborative information; and

5

6

(x) Any other relevant information.

7

8

(c) After receipt of a report that a ~~disabled~~  
9 vulnerable adult is suspected of being or has been abused,  
10 neglected, exploited or abandoned or is committing self  
11 neglect, the department shall notify law enforcement ~~agency~~  
12 and may request assistance from ~~the administrator and from~~  
13 appropriate health or mental health agencies.

14

15

(d) If a law enforcement officer determines that a  
16 ~~disabled~~vulnerable adult is abused, neglected, exploited  
17 or abandoned, or is committing self neglect, he shall  
18 notify the ~~division~~department concerning the potential  
19 need of the ~~disabled~~vulnerable adult for protective  
20 services.

21

22

(e) Any report or notification to the ~~division~~  
23 department that a ~~disabled~~vulnerable adult is, or is  
24 suspected of being, abused, neglected, exploited or

1 abandoned, or is committing self neglect, shall be  
2 investigated, a determination shall be made whether  
3 protective services are necessary and, if determined  
4 necessary, protective services shall be furnished by the  
5 ~~division~~department within forty-five (45) days from the  
6 time the report or notice is received by the ~~division~~  
7 department. The investigation may include a visit to the  
8 facility in which the vulnerable adult resides and an  
9 interview with the vulnerable adult.

10  
11 (f) Each substantiated report of abuse, neglect,  
12 exploitation or abandonment of a ~~disabled~~vulnerable adult  
13 pursuant to this act shall be entered and maintained within  
14 the central registry of ~~child and disabled~~vulnerable adult  
15 protection cases under W.S. ~~14-3-213~~35-20-115.

16  
17 **35-20-104. Department to coordinate services; rules**  
18 **and regulations.**

19  
20 (a) The ~~division~~department shall:

21  
22 (i) Coordinate a protective services program  
23 consistent with this act, with the goal of ensuring that  
24 every ~~disabled~~vulnerable adult in need of ~~protection~~

1 protective services will have easy access to protective  
2 services;

3

4 (ii) Adopt rules, regulations and standards for  
5 services provided by the ~~division~~department necessary to  
6 effect the provisions and purposes of this act;

7

8 **35-20-105. Protective services; no services without**  
9 **consent; responsibility for costs.**

10

11 (a) The ~~division~~department may furnish protective  
12 services in response to a request for assistance from the  
13 ~~disabled~~vulnerable adult, his ~~caretaker or his~~caregiver,  
14 conservator, guardian, guardian ad litem or agent, or a  
15 family member.

16

17 (b) Except under conditions provided for in W.S.  
18 35-20-106 no ~~disabled~~vulnerable adult shall be required to  
19 accept protective services without his consent or, if he  
20 lacks the capacity to consent, the consent of his ~~caretaker~~  
21 caregiver, conservator, guardian, guardian ad litem or  
22 agent, or a family member.

23

1 (c) Costs incurred to furnish protective services  
2 shall be paid by the ~~division~~department unless:

3

4 (i) The ~~disabled~~vulnerable adult is eligible  
5 for protective services from another governmental agency or  
6 any other source; or

7

8 (ii) A court appoints a guardian ad litem,  
9 guardian or conservator and orders that the costs be paid  
10 from the ~~disabled~~vulnerable adult's estate.

11

12 **35-20-106. Petition by department when caregiver**  
13 **refuses to allow services; injunction.**

14

15 (a) When a ~~disabled~~vulnerable adult needs protective  
16 services and the ~~caretaker~~caregiver refuses to allow the  
17 provision of those services, the ~~division~~department,  
18 through the attorney general or the district attorney, may  
19 petition the court for an order enjoining the ~~caretaker~~  
20 caregiver from interfering with the provision of protective  
21 services.

22

23 (b) The petition shall allege facts sufficient to  
24 show that the ~~disabled~~vulnerable adult needs protective

1 services, that he consents or lacks the capacity to consent  
2 to receive the services and that the ~~caretaker~~ caregiver  
3 refuses to allow the protective services.

4

5 (c) If the court finds the allegations of the  
6 petition to be true by a preponderance of the evidence, it  
7 may:

8

9 (i) Enjoin the ~~caretaker~~ caregiver from  
10 interfering with the provision of protective services; and

11

12 (ii) Order the ~~division~~ department to provide  
13 the protective services.

14

15 **35-20-107. Emergency services.**

16

17 (a) If an emergency exists and the ~~division~~  
18 department has reasonable cause to believe that a ~~disabled~~  
19 vulnerable adult is suffering from abuse, neglect, self  
20 neglect, exploitation or abandonment and lacks the capacity  
21 to consent to the provision of protective services, the  
22 ~~division~~ department, through the attorney general or the  
23 district attorney, may petition the court for an order for  
24 emergency protective services.

1

2 (b) The court shall give notice to the ~~disabled~~  
3 vulnerable adult who is the subject of the petition at  
4 least twenty-four (24) hours prior to the hearing. The  
5 court may dispense with notice if it finds that immediate  
6 or reasonably foreseeable physical harm to the ~~disabled~~  
7 vulnerable adult will result from the twenty-four (24) hour  
8 delay and that reasonable attempts have been made to give  
9 notice.

10

11 (c) The allegations of the petition shall be proved  
12 by a preponderance of the evidence. If the court finds  
13 that the ~~disabled-vulnerable~~ adult has been or is being  
14 abused, neglected, exploited or abandoned, or is committing  
15 self neglect, that an emergency exists and that the  
16 ~~disabled-vulnerable~~ adult lacks the capacity to consent to  
17 the provision of services, the court may order the ~~division~~  
18 department to provide protective services on an emergency  
19 basis. The court shall order only those services necessary  
20 to remove the conditions creating the emergency and shall  
21 specifically designate the authorized services. The order  
22 for emergency protective services shall remain in effect  
23 for a period not to exceed seventy-two (72) hours. The  
24 order may be extended for an additional seventy-two (72)

1 hour period if the court finds that the extension is  
2 necessary to remove the emergency. The ~~disabled~~ vulnerable  
3 adult, ~~or his agent~~, his court appointed representative or  
4 the ~~division~~ department, through the attorney general or  
5 the district attorney, may petition the court to set aside  
6 or modify the order at any time.

7  
8 (d) The ~~disabled~~ vulnerable adult may be placed by  
9 the court in a hospital or other suitable facility which is  
10 appropriate under the circumstances. The person or agency  
11 in whose care the ~~disabled~~ vulnerable adult is placed shall  
12 immediately notify the person responsible for the care and  
13 custody of the ~~detained person~~ vulnerable adult, if known,  
14 of the ~~time and place of detention~~ placement.

15

16 **35-20-108. Records confidential; exception.**

17

18 Except as provided under W.S. ~~14-2-213 and 14-2-214~~  
19 35-20-116, records of the ~~division~~ department or other  
20 agency or the court pertaining to a ~~disabled~~ vulnerable  
21 adult ~~to receive~~ receiving protective services under this  
22 act are not open to public inspection. Information  
23 contained in those records shall not be disclosed to the  
24 public in any manner that will identify any individual. The

1 records may be made available for inspection only upon  
2 application to the court pursuant to W.S. 35-20-112 for  
3 good cause shown.

4

5       **Section 3.**     W.S. 14-3-202(a)(xii) through (xiv),  
6 35-20-102(a)(vi), (x), (xiii) and 35-20-109 are repealed.

7

8       **Section 4.**     This act is effective July 1, 2002.

9

10

(END)